

The Sind Rented Premises Ordinance, 1979

(with introductory notes)



Abid Qureshi
Advocate High Court



MEGA PUBLISHERS

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SIND RENTED PREMISES
ORDINANCE, 1979**
(with introductory notes)

M. YOUSUF ALI

MEGA PUBLISHERS
KARACHI

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First Edition

by

ABID QURESHI
Advocate High Court

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"The Sind Rented Premise Ordinance, 1979"
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PREFACE

The main approach in designing and writing of this handbook is to provide information, knowledge and to keep abreast of the former provisions (*original text*) which have been *omitted* or *substituted* through the legislative changes and developments made in *The Sind Rented Premises Ordinance, 1979* from time to time so as to facilitate easy reference and provide a clear reference point for its reader.

Further, I have also tried to set out a brief introductory note on the subject just to give a birds' eye view. The succinct yet informative style bridges the gap between the needs of the specialist practitioner, the non-lawyer and the student as this book is equally worthy to all other concerned people too.

Lastly, I must extend my very grateful thanks to a number of people who have helped in the production of this book: in particular, to the team of Mega Publishers, Karachi, for their invaluable advices, they extended in preparing and shaping this book so excellently.

Any suggestion or ideas are welcome.

January, 2012

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imp → should always be increase over the existing rent. It is quite possible that the rent controller may well determine the "fair rent" of premises in an appropriate case less than that of existing rent, after taking into consideration the factors mentioned in clauses (a), (b), (c) & (d) of sub-section (1) of section 8 of the Ordinance. It further shows that by virtue of sub-section (2), the rent controller can also take into consideration the matters referred to therein while fixing fair rent.

The main purpose of the Rent Laws is to control rent and save the tenant from illegal eviction and harassment by the landlord. Section 11 of the SRPO, 1979 check on the landlord so that the tenants may not be put to harassment by disturbing their amenities by the landlord. The tenant is entitled to enjoy the premises without interruption. The Controller has power to take cognizance of the complaint made by the tenant against the landlord, if he finds, after proper analysis that the discontinuance or caused to be discontinuation of any amenities is in contravention of the provisions of the sub-section of (1) of the section 11 of the Sind Rented Premises Ordinance, 1979, shall liable to be punished as mentioned in the Sub-section (5) of the section 11.

imp → There is a specific provision of section 12 in the SRPO, 1979 wherein the law provides that repairs can be made only with the permission of the Controller and then the cost of such repairs can be adjusted in the rent. The word "repairs" indicates that work which is to be done to restore the previous condition of the premises. Further, the word "necessary" indicates that such restoration should be of a necessary nature. Thus if a tenant chooses to take on rent the premises of poor quality or in bad condition then he is entitled to live in such premises and not to expect any improvements should be made so that he may live in better premises than those he bargained for when he entered into contract.

It is evident that the intention of the legislature was that the persons specified in sub-section (1) of section 14 should be able to get possession of the premises. The question of good-faith has not to be gone into in any case if other conditions mentioned in section 14 namely, (i) that the landlord informs the tenant that he needs the building for personal use and requires him to deliver vacant possession within such time as may be specified in the notice, not earlier than two months from the receipt thereof, (ii) that he has not rented out the

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building after he has retired or attained the age of 60 years or as the case may be, has become widow or orphan, (iii) that he is not in occupation of a building owned by him in any locality, have been complied with. It therefore, follows that unless notice in accordance with the provisions of section 14 of the SRPO, 1979 is served and the period mentioned therein expires he cannot apply to the Controller for eviction of the tenant. This is the condition precedent and without service of notice under section 14 sub-section (1) of the Ordinance, 1979, the landlord cannot apply to the Controller for eviction.

The effect of amendment in section 15-A seems to be that prior to this amendment, if a landlord had not taken action for ejectment for number of years, it could have been legitimately concluded that he had waived his right or had tacitly consented to the above sub-letting. However, after the above amendment it will be very difficult for a tenant to successfully defend any ejectment proceeding initiated against him on the ground of sub-letting in absence of prior written permission. Thus, It is well established law that a party may be debarred from pleading for or enforcing his right if he had acquiesced in breach thereof and waived his right.

Section 18 is remedial in nature and provides a specific procedure. A plain reading of the above section shows that it provides that where ownership of premises in possession of a tenant has been transferred by sale, gift, inheritance or by such other mode, the new owner is obliged to send an intimation of such transfer in writing by registered post to the tenant. It also provides that the tenant shall not be deemed to have defaulted in payment for the purpose of clause (ii) of sub-section (2) of section 15 of the Ordinance if the rent due is paid within 30 days from the date when the intimation should, in normal course, have reached the tenant. One view can be that a notice under section 18 of the Ordinance is contemplated if there is transfer of entire ownership of the premises through one of the modes mentioned in the above section as it envisages service of Notice by the "new owner". The other view can be that if there is a transfer of ownership in respect of a part of interest, in premises, a Notice under the above provision is mandatory. Thus, a Service of Notice is relevant for the purpose of filing ejectment application by the landlord on ground of default.

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The Rent Controller is a special Tribunal constituted under the Rent Laws. He is not a court *stricto sensu* and the proceedings before him cannot be challenged on the ground that he failed to observe the procedure prescribed for the Civil Courts. Though under section 20 of the Sind Rented Premises Ordinance, 1979, the Controller has been given powers "of summoning and enforcing the attendance of witnesses and compelling the production of evidence", he is not bound in every case to follow the procedure as laid down in the Code of Civil Procedure, 1908. Thus, proceeding before the Rent Controller are *quasi-judicial* in nature. Technicalities of law are not exposed to be followed by him, nor are strict standards of pleadings required.

Thus, from the above discussion, we understand that the provisions of the Sind Rented Premises Ordinance, 1979 does provide safeguards for certain interests of the landlord as well as tenant as mentioned in its preamble "to make effective provisions for regulation of relations between landlords and tenants and protect their interests in respect of rented premises within urban areas" like determination of fair rent, recovery of rent paid in excess, prohibition of landlord from interfering with the amenities enjoyed by the tenant, repairs, prohibition against conversion of a residential building into a non-residential building, etc. The Ordinance being a special enactment overrides the provisions relating to the ejectment of tenants as given in the Transfer of Property Act, 1882. The latter Act, however, shall continue to operate in respect of matters not dealt with the Rent Laws.

=====

THE SIND RENTED PREMISES ORDINANCE, 1979

(SIND ORDINANCE No. XVII OF 1979)

¹{Karachi the 21st November, 1979}

AN ORDINANCE

*to make effective provisions for regulation of relations
between landlords and tenants and protect their interests
in respect of rented premises within urban areas*

Preamble. - WHEREAS it is expedient to make effective provisions for regulation of relations between landlords and tenants and protect their interests in respect of rented premises within urban areas;

NOW, THEREFORE in pursuance of the Proclamation of the fifth day of July, 1977 and the Laws (Continuance in Force), Order 1977, the Governor of Sind is pleased to make and promulgate the following Ordinance: -

1. Short title and commencement. - (1) This Ordinance may be called the Sind Rented Premises Ordinance, 1979.

(2) It shall come into force at once.

¹ Notification No. S. Legis. 1 (17) / 79.

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2. **Definitions.** - In this Ordinance, unless there is anything repugnant in the subject or context, -

- (a) **"building"** means any building or part thereof, together with all fittings and fixtures therein, if any, and includes any garden, garrage, out-house and open space attached or appurtenant thereto;
- (b) **"Controller"** means a Controller appointed under section 4 and includes a person working as Controller immediately before coming into force of this Ordinance;
- (c) **"fair rent"** means the fair rent of any premises determined by the Controller under this Ordinance;
- (d) **"Government"** means the Government of Sind;
- (e) **"land"** means land or open space, not being agricultural land or land or open space attached or appurtenant to any building;
- / (f) **"landlord"** means the owner of the premises, and includes a person who is for the time being authorized or entitled to receive rent in respect of such premises;
- (g) **"personal use"** means the use of the premises by the owner thereof or his wife (or husband), son or daughter;
- (h) **"premises"** means a building" or land, let out on rent, but does not include a hotel;
- (i) **"rent"** includes water charges, electricity charges and such other charges which are payable by the tenant but are unpaid;
- / (j) **"tenant"** means any person who undertakes or is bound to pay rent as consideration for the possession or occupation of any premises by him or by any other person on his behalf and includes : -.

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- (i) any person who continues to be in possession or occupation of the premises after the termination of his tenancy;
- (ii) heirs of the tenant in possession or occupation of the premises after the death of the tenant; and
- (k) "**urban area**" means an area within the jurisdiction of a Town Committee, Municipal Committee, Municipal Corporation or Metropolitan Corporation.

3. **Applicability.** - (1) Notwithstanding anything contained in any law for the time being in force, all premises other than those owned or requisitioned under any law, by or on behalf of the Federal Government or Provincial Government, situated within an urban area, shall be subject to the provisions of this Ordinance:

1[* * * *]

(2) Government may, by notification, exclude any class of premises, or all premises in any area from operation of all or any of the provisions of this Ordinance.

4. **Controllers.** - (1) Government may appoint one or more Controllers in any district and if more than one Controller is appointed in the same district, Government shall define the local limits within which each of such Controllers shall exercise jurisdiction:

Provided that the Controllers working immediately before coming into force of this Ordinance shall continue to exercise their respective territorial jurisdiction until it has been altered by Government.

¹ Proviso to sub-section (1) omitted by the Sind Rented Premises (Amdt.) Ordinance, 1984 (Ord. No. IV of 1984), the Sind Govt. Gaz., Extr., Pt. I, P.No. 853, dt. July 30, 1984. This proviso was previously read as:

"Provided that nothing contained in sections 8 and 9 shall apply to a building for a period of ten years immediately After it has been wholly built or re-built and become ready for occupation",

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(2) No person shall be appointed as a Controller unless he has worked or has been working, as a Civil Judge ¹[* * *] for not less than three years.

²[(3) * * * *]

5. **Agreement between landlord and tenant.** - (1) The agreement by which a landlord lets out any premises to a tenant shall be in writing and if such agreement is not compulsory registerable under any law for the time being in force, it shall be attested by, signing by, and sealing with the seal of, the Controller within whose jurisdiction the premises is situated or any Civil Judge or First Class Magistrate.

(2) Where any agreement by which a landlord lets out any premises to a tenant is compulsorily registerable under any law for the time being in force, a certified copy of the registered deed and where the agreement is not so registerable, the original deed duly attested under sub-section (1), shall be produced and accepted in proof of the relationship of the landlord and tenant:

Provided that nothing in this section shall affect any agreement between the landlord and tenant immediately before coming into force of this Ordinance.

³[6. * * * *]

¹ The words "or First Class Magistrate" omitted by the Sind Rented Premises (Amdt.) Ordinance, 2001 (Ord. No. XIV of 2001), the Sind Govt. Gaz., Extr., Pt. I, P.No. 1010-G, dt. April 17, 2001.

² sub-section (3) omitted by the Sind Rented Premises (Amdt.) Ordinance, 2001 (Ord. No. XIV of 2001), the Sind Govt. Gaz., Extr., Pt. I, P.No. 1010-G, dt. April 17, 2001. This sub-section was previously read as:

"(3) Government may authorize the District Judge or Deputy Commissioner, to transfer cases from one Controller to another within the District"

³ Section 6 together with its proviso omitted by the Sind Rented Premises (Amdt.) Ordinance, 1984 (Ord. No. IV of 1984), the Sind Govt. Gaz., Extr., Pt. I, P.No. 853, dt. July 30, 1984. This section was previously read as:

"6. **Tenure of Tenancy.** - No tenancy shall, at a time be valid beyond such period as the landlord and tenant have, by mutual agreement, fixed before or after the commencement of the tenancy.

Provided that nothing in this section shall effect any tenancy existing immediately before coming into force of this Ordinance".

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7. **Higher rent not chargeable.** - No landlord shall charge or receive rent in respect of any premises, at the rate higher than that mutually agreed upon by the parties, and, if the fair rent has been fixed by the Controller in respect of such premises, at the rate higher than the fair rent.

8. **Fair rent.** - (1) The Controller shall, on application by the tenant or landlord determine fair rent of the premise, after taking into consideration the following factors: -

- (a) the rent of similar premises situated in the similar circumstances, in the same or adjoining locality;
- (b) the rise in cost of construction and repair charges;
- (c) the imposition of new taxes, if any, after commencement of the tenancy; and
- (d) the annual value of the premises, if any, on which property tax is levied.

(2) Where any addition to, or improvement in, any premises has been made or any tax or other public charge has been levied, enhanced, reduced or withdrawn in respect thereof, or any fixture such as lifts or electric or other fittings have been provided thereon subsequent to the determination of the fair rent of such premises, the fair rent shall, notwithstanding the provisions of section 9 be determined or, as the case may be, revised after taking such changes into consideration.

9. **Limit of Fair rent.** - (1) Where the fair rent of any premises has been fixed; no further increase thereof shall be effected unless a period of three years has elapsed from the date of such fixation or commencement of this Ordinance whichever is later.

(2) The increase in rent shall not, in any case, exceed ten per cent per annum on the existing rent.

10. **Payment of rent.** - (1) The rent shall, in the absence of any date fixed in this behalf by mutual agreement between the landlord

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and tenant be paid not later than the tenth of the month next following the month for which it is due.

(2) The rent shall, as far as may be, be paid to the landlord, who shall acknowledge receipt thereof in writing.

(3) Where the landlord has refused or avoided to accept the rent, it may be sent to him by postal money order or, be deposited with the Controller within whose jurisdiction the premises is situated.

(4) The written acknowledgement, postal money order receipt or receipt of the Controller, as the case may be, shall be produced and accepted in proof of the payment of the rent:

Provided that nothing contained in this section shall apply in the cases pending before the Controllers on the commencement of this Ordinance.

11. Discontinuance of amenities and services. - (1) No landlord shall discontinue or cause to be discontinued any service such as electricity, gas or water, except with the previous consent of the tenant or in compliance with the requisition of the concerned authority or after obtaining the direction of the Controller in this behalf.

(2) Where the landlord has discontinued or caused to be discontinued any service in contravention of sub-section (1), the tenant may make an application to the Controller for restoration thereof.

(3) Where the Controller is, after making such inquiry as he deems fit, satisfied that the service has been discontinued without sufficient cause, he shall make an order directing the landlord to have the service restored within such period as may be specified in the order.

(4) Where the landlord has failed to comply with the order of the Controller made under sub-section (3), the Controller may take necessary steps to get the service restored and recover the costs of such restoration from the landlord.

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(5) Where the landlord has contravened the provisions of sub-section (1), he shall be punished with simple imprisonment for a period not exceeding six months or with fine or with both.

12. Repairs. - (1) Subject to the agreement, if the landlord fails to make such repairs or white-washing as may be necessary to keep the premises in proper shape, the Controller may, on an application made to him by the tenant and after such inquiry as the Controller deems fit to make, direct that such repairs or white-washing may be made by the tenant and the cost thereof may be deducted from the rent payable to the landlord.

(2) Where any authority empowered by a law for the time being in force has required landlord to make such repairs within such period as may be specified by such authority and the landlord has made default in this behalf, such authority may require the tenant to make such repairs.

(3) Where the tenant has made the repairs as aforesaid the authority ordering the repairs shall, after due verification of the details of the expenditure incurred by the tenant, certify the cost of repairs and the tenant may thereupon deduct the amount so certified from the rent payable to the landlord.

13. Eviction. - No tenant shall be evicted from the premises in his possession except in accordance with the provisions of the Ordinance.

14. Delivery of vacant possession. - (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, the landlord of a building who is a widow, or a minor whose both parents are dead or a salaried employee due to retire within the next six months or has retired or a person who is due to attain the age of sixty years within the next six months or has attained the age of sixty years, may, by notice in writing inform the tenant that he or she needs the building for personal use and require him to deliver vacant possession of the building within such time as may be specified in the notice, not being earlier than two months from the receipt thereof:

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¹[Provided that nothing in this sub-section shall apply where the landlord has rented out the building after he has retired or attained the age of sixty years or, as the case may be, has become widow or orphan.]

(2) The landlord shall not be entitled to avail the benefit, of sub-section (1) if he is in occupation of a building owned by him in any locality.

(3) Where the tenant has failed to deliver the possession of the building under sub-section (1), the Controller shall, on application by the landlord in this behalf, order eviction of the tenant from the building in a summary manner, by using such force as maybe necessary.

²[(4) * * * *]

15. Application to Controller. - (1) Where a landlord seeks to evict the tenant otherwise than in accordance with section 14, he shall make such application to the Controller.

(2) The Controller shall, make an order directing the tenant to put the landlord in possession of the premises within such period as may be specified in the order, if he is satisfied that -

³[(i) * * * *]

¹Proviso substituted by the Sind Rented Premises (Second Amdt.) Ordinance, 1980 (Ord. No. XII of 1980), the Sind Govt. Gaz., Extr., Pt. I, P.No. 638, dt. September 1, 1980.

² Sub-section (4) of section 14 omitted by the Sind Rented Premises (Amdt.) Ordinance, 1980 (Ord. No. II of 1980), the Sind Govt. Gaz., Extr., dt. January 21, 1980. This sub-section was previously read as:

"(4) Where the landlord, who has obtained the possession of the building under this section, re-lets the building to any person other than the previous tenant or puts it to a use other than personal use within one year of such possession, he shall be punishable with fine which shall not exceed one year's rent of the building payable immediately before the possession was so obtained."

³ Clause (i) of sub-section (2) of section 15 omitted by the Sind Rented Premises (Amdt.) Ordinance, 1984 (Ord. No. IV of 1984), the Sind Govt. Gaz., Extr., Pt. I, P.No. 853, dt. July 30, 1984. This clause was previously read as:

"(i) the tenancy has ceased to be valid under section 6;"

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- (ii) the tenant has failed to pay rent in respect of the premises in his possession within fifteen days after the expiry of the period fixed by mutual agreement between the tenant and landlord for payment of the rent, or in the absence of such agreement, within sixty days after the rent has become due for payment¹ [:]
- ① →
- ② →

²[Provided that where the application made by the landlord is on the sole ground mentioned in this clause and the tenant on the first day of hearing admits his liability to pay the rent claimed from him, the Controller shall, if he is satisfied that the tenant has not made such default on any previous occasion and the default is not exceeding six months, direct the tenant to pay all the rent claimed from him on or before the date to be fixed for the purpose and upon such payment, he shall reject the application;]

- (iii) the tenant has, without the written consent of the landlord:
- (a) handed-over the possession of the premises to some other person;
 - (b) used the premises for the purpose other than that for which it was let out;
 - (c) infringed the conditions on which the premises was let out;
- (iv) the tenant has committed such acts as are likely to impair the material value or utility of the premises;

¹ In clause (ii) of sub-section (2) at the end semi colon substituted by colon by the Sind Rented Premises (Amdt.) Ordinance, 2001 (Ord. No. XIV of 2001), the Sind Govt. Gaz., Extr., Pt. I, P.No. 1010-G, dt. April 17, 2001.

² Proviso to clause (ii) of sub-section (2) of section 15 added by the Sind Rented Premises (Amdt.) Ordinance, 2001 (Ord. No. XIV of 2001), the Sind Govt. Gaz., Extr., Pt. I, P.No. 1010-G, dt. April 17, 2001.

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- (v) the tenant has indulged in such activities as are causing nuisance to the neighbours;
- (vi) the premises is required by the landlord for reconstruction or erection of a new building at the site and the landlord has obtained necessary sanction for such reconstruction or erection from the authority competent under any law for the time being in force to give such sanction;
- (vii) the landlord requires the premises in good faith for his own occupation or use or for the occupation or use of his spouse or any of his children.

(3) Where the landlord who has obtained the possession of the premises for the purpose of reconstruction of the building or erection of a new building, shall demolish the existing building within six months of the taking over of the possession of the premises or, as the case may be, commence the erection of the new building within two years of the taking over of the possession of the premises, and in case the landlord fails to demolish the building as aforesaid, the tenant shall be entitled to be put into possession of the premises ¹[and for the purpose he may apply to the Controller for an order in that behalf].

²[(4) Where the landlord constructs the building as aforesaid the tenant who was evicted from the old building may, before the completion of new building and its occupation by another person, apply to the Controller for an order directing that he be put in possession of such area in the new building as does not exceed the area of the old building of which he was in occupation and the Controller shall make an order accordingly in respect of the area applied for or such smaller area, as considering the location and type of the new building and the needs of the tenant, he deems just and on payment of rent to be

¹ In sub-section (3) of section 15, before the full stop at the end, the words added by the Sind Rented Premises (Amdt.) Ordinance, 1980 (Ord. No. II of 1980), the Sind Govt. Gaz., Extr., dt. January 21, 1980.

² Sub-section (4) added by the Sind Rented Premises (Amdt.) Ordinance, 1984 (Ord. No. IV of 1984), the Sind Govt. Gaz., Extr., Pt. I, P.No. 853, dt. July 30, 1984.

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determined by him on the basis of rent of similar accommodation in the locality.]

¹[15-A. Where the land-lord, who has obtained the possession of a building under section 14 or premises under clause (vii) of section 15, re-lets the building of premises to any person other than the previous tenant or puts it to a use other than personal use within one year of such possession:-

- (i) he shall be punishable with fine which shall not exceed one year's rent of the building of the premises, as the case may be, payable immediately before the possession was so obtained;
- (ii) the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of the building or the premises, as the case may be, and the Controller shall make an order accordingly.]

16. Arrears of rent. - (1) Where a case for eviction of the tenant has been filed, the controller shall, on application by the landlord and after such summary inquiry as he deems fit to make, determine the arrears of the rent due and order the tenant to deposit the same within such period as the Controller may fix in this behalf and further direct the tenant to deposit monthly rent regularly on or before the tenth of every month, until final disposal of the case ²[:]

¹ Section 15-A substituted by the Sind Rented Premises (Amdt.) Ordinance, 1984 (Ord. No. IV of 1984), the Sind Govt. Gaz., Extr., Pt. I, P.No. 853, dt. July 30, 1984. This section was previously read as:

"(15-A) Where the landlord, who has obtained the possession of a building under section 14 or premises under clause (VII) of section 15 re-lets the building or premises to any person other than the previous tenant or puts it to a use other than personal use within one year of such possession he shall be punishable with fine which shall not exceed one year's rent of the building of the premises, as the case may be, payable immediately before the possession was so obtained."

² In sub-section (1) at the end full stop substituted by colon by the Sind Rented Premises (Amdt.) Ordinance, 2001 (Ord. No. XIV of 2001), the Sind Govt. Gaz., Extr., Pt. I, P.No. 1010-G, dt. April 17, 2001.

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¹[Provided that the Controller may direct that the arrears of rent and approximate rent may be paid to the landlord through pay order, or by any other mode agreed to by the parties, or as directed by the Controller.]

(2) Where the tenant has failed to deposit the arrears of rent or to pay monthly, rent under sub-section (1), his defence shall be struck off and the landlord shall be put into possession of the premises within such period as may be specified by the Controller in the order made in this behalf.

(3) Where the rent has been deposited under this section, it shall, subject to such order as the Controller may make in this behalf, be paid to the landlord at the conclusion of the case or on such earlier date as may be specified by the Controller.

17. Compensation for vexatious eviction. - Where the Controller is satisfied that any application made by a landlord for eviction of the tenant is frivolous or vexatious he may direct that compensation not exceeding ten times the monthly rent be paid by such landlord to the tenant.

18. Change in ownership. - Where the ownership of a premises, in possession of the tenant has been transferred by sale, gift, inheritance or by such other mode, the new owner shall send an intimation of such transfer in writing by registered post, to the tenant and the tenant shall not be deemed to have defaulted in payment of the rent for the purpose of clause (ii) of sub-section (2) of section 15, if the rent due is paid within thirty days from the date when the intimation should in normal course, have reached the tenant.

19. Procedure. - (1) Where an application other than the application under section 14 has been made to the Controller under this Ordinance, he shall, unless the application is summarily dismissed by him for reasons to be recorded, issue a notice to the respondent to file

¹ Proviso to section 16 added by the Sind Rented Premises (Amdt.) Ordinance, 2001 (Ord. No. XIV of 2001), the Sind Govt. Gaz., Extr., Pt. I, P.No. 1010-G, dt. April 17, 2001.

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written reply, if any, within such period not exceeding fifteen days of the receipt of the notice.

(2) Where on the day fixed in the notice for the respondent to file written reply, it is found that the notice has been served but the respondent has failed to file his reply without any reasonable excuse, the Controller may, proceed to make an exparte order and after such order has been made the Controller shall have no power to rescind such order.

(3) Where the respondent has filed the written reply, the Controller shall proceed to receive evidence first of the applicant and his witnesses and then of the respondent and his witnesses.

(4) A party to a case under this Ordinance shall prove the evidence of his witness by producing the affidavit of such witness a copy of which shall simultaneously be supplied to the other party and such other party shall have the right to cross examine the witness on such affidavit and if the witness has been cross-examined the party producing the witness may re-examine him.

(5) The Controller shall, instead of formally framing issues arising between the parties, state them briefly in the judgment and shall record findings on each such issue separately.

20. Power of Civil Court. - Subject to this Ordinance, the Controller and the appellate authority shall, for the purpose of any case under this Ordinance; have powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of only the matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling production or discovery of documents;
- (c) inspecting the site; and
- (d) issuing commission for examination of witnesses or documents.

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21. **Appeal.** - (1) Any party aggrieved by an order, not being an interim order, made by the Controller may, within thirty days of such order, prefer an appeal to the ¹[District Judge having jurisdiction in the area where the premises in relation to which the order is passed.]

²[(I-A) On such appeal being preferred, the District Judge may hear it himself, or refer it for disposal to an Additional District Judge.

(I-B) The District Judge may recall an appeal referred to an Additional District Judge and either hear it himself or refer it for disposal to another Additional District Judge.

(I-C) The appellate authority, may, at any stage of appeal attempt to effect a compromise between the parties.

(I-D) The appellate authority may, where it deems fit, before passing a final order allow the tenant to continue his tenancy subject to payment of enhanced rent fixed by the authority.

(I-E) On the application of a party and after notice to the other party and after hearing such of them as desire to be heard, or on its own motion without such notice -

(a) the appellate authority may at any stage withdraw any application pending with a Controller and transfer the same for disposal to any other Controller;

(b) the High Court may at any stage withdraw any appeal pending with any appellate authority and transfer the same for disposal to any other appellate authority competent to dispose of the same.]

¹ In sub-section (1) of section 21 words substituted for "High Court" by the Sind Rented Premises (Amdt.) Ordinance, 2001 (Ord. No. XIV of 2001), the Sind Govt. Gaz., Extr., Pt. I, P.No. 1010-G, dt. April 17, 2001.

² New sub-sections (1-A), (1-B), (1-C), (1-D) & (1-E) inserted by the Sind Rented Premises (Amdt.) Ordinance, 2001 (Ord. No. XIV of 2001), the Sind Govt. Gaz., Extr., Pt. I, P.No. 1010-G, dt. April 17, 2001.

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(2) The appellate authority may pending the final disposal of the appeal, grant injunction staying further proceedings or action on the order of the Controller:

Provided that the injunction shall be granted if the appeal has been preferred from the order under section 14.

(3) The appellate authority shall, after pursuing the record of the case and giving the parties an opportunity of being heard and, if necessary, after making such further enquiry either by himself or by the Controller, make an appropriate order, which shall be final.

¹[21-A. All appeals filed under this Ordinance and pending in the High Court immediately before the commencement of the Sindh Rented Premises (Amendment) Ordinance, 2001, shall stand transferred to the District Judge having jurisdiction as provided in sub-section (1) of section 21, for disposal:

Provided that the appeals as are fixed for judgments shall be disposed by the High Court.]

²[22. **Execution of Orders.** - Final order passed under this Ordinance shall be executed by the Controller and all questions arising between the parties and relating to the execution, discharge or satisfaction of the order shall be determined by the Controller and not by a separate suit.

Explanation. - In the execution proceedings relating to the order of ejectment, no payment, compromise or agreement, shall be valid unless such payment, compromise or agreement is made before or with the permission of the authority passing the order.]

¹ Section 21-A inserted by the Sind Rented Premises (Amdt.) Ordinance, 2001 (Ord. No. XIV of 2001), the Sind Govt. Gaz., Extr., Pt. I, P.No. 1010-G, dt. April 17, 2001.

² Section 22 substituted by the Sind Rented Premises (Amdt.) Act, 1986 (Act No. I of 1986), the Sind Govt. Gaz., Pt. V, P.No. 17, dt. May 12, 1986.

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23. **Judicial proceedings.** - The Controller and the appellate authority shall be deemed to be a Civil Court within the meaning of section 480 of the Code of Criminal Procedure, 1898 (Act V of 1898).

24. **Cognizance of offence.** - No Court shall take cognizance of an offence under this Ordinance except upon complaint in writing made by the Controller.

25. **Indemnity.** - No suit or legal proceedings shall lie against, Government or any authority or person in respect of anything done or intended to be done in good faith under this Ordinance.

26. **Rules.** - Government may make rule for carrying out the purposes of this Ordinance,

27. **Repeal.** - (1) The Sind Urban Rent Restriction Ordinance, 1959, is hereby repealed.

(2) All appeals, and such cases before a Controller as are fixed for arguments or judgment which have been filed under the Ordinance mentioned in sub-section (1) shall, notwithstanding the repeal thereof, be disposed in accordance with the said Ordinance.

¹[(3) All other cases instituted under the Ordinance mentioned in sub-section (1) and which immediately before the commencement of this Ordinance were pending before a Controller shall, notwithstanding any orders made otherwise by the Controller, be continued and disposed in accordance with the provisions of this Ordinance and any proceedings taken or orders made in, any such cases as aforesaid shall for all purposes have effect as proceedings taken or orders made under this Ordinance.

(4) Notwithstanding the provisions, of sub-section (2) all orders made in pursuance thereof and any order made under the Ordinance mentioned in sub-section (1) in any proceedings before the commencement of this Ordinance shall be deemed to have effect as an

¹ Sub-section (3) & (4) added by the Sind Rented Premises (Amdt.) Ordinance, 1980 (Ord. No. II of 1980), the Sind Govt. Gaz., Extr., dt. January 21, 1980.

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order under this Ordinance and be executed in accordance with the provisions of section 22.]

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